

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE

TINA CAVENESS,

Plaintiff,

v.

Docket No. 3:10-0650

VOGELY & TODD, INC., and DON
DURHAM,

Judge Haynes

Defendants.

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
AGAINST ALL DEFENDANTS

COMES NOW Plaintiff Tina Caveness ("Plaintiff or Ms. Caveness") pursuant to Federal Rule of Civil Procedure 56, and moves for summary judgment on her claims for violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.* (Count I) against Defendants Vogely & Todd, Inc. ("V&T") and Don Durham ("Durham") (collectively "Defendants").

In particular, there is no genuine issue of material fact regarding the following:

1. Plaintiff was a non-exempt employee under the FLSA;
2. Defendants failed to pay Plaintiff for overtime work at one-and-a-half times her normal hourly rate as required by 29 U.S.C. § 207(a)(1); and
3. Defendants are jointly and severally liable to Plaintiff as a result of their willful failure to pay Plaintiff wages due to her under the FLSA.

In support of the instant motion for summary judgment, Plaintiff files contemporaneously the following:

1. Plaintiff's Memorandum of Law in Support of Plaintiff's Motion for Partial Summary Judgment Against Defendants.

2. Plaintiff's Statement of Undisputed Facts.
3. Deposition Transcript of Don Durham, April 14, 2011 and cited Exhibits.
4. Deposition Transcript of Vickie Sprinkles, corporate designee for Vogely & Todd, April 15, 2011 and cited Exhibits.
5. Portions of Deposition Transcript of Tina Caveness, April 12, 2011
6. Declaration of Tina Caveness, June 1, 2011
7. Declaration of Rick Flores, June 1, 2011.

WHEREFORE, Plaintiff respectfully requests the Court GRANT her Motion for Partial Summary Judgment, award her unpaid wages, liquidated damages, attorney's fees and costs, hold such other proceedings be held as necessary to determine the full extent of Plaintiff's damages and grant any such other relief it deems necessary and proper.

Respectfully submitted,

s/ Heather M. Collins
Heather Moore Collins (#26099)
2002 Richard Jones Road, Suite B-200
Nashville, Tennessee 37215
(615)724-1996
(615)691-7019 (FACSIMILE)
heather@hmcollinslaw.com

and

Cynthia J. Cutler (BPR # 22062)
2002 Richard Jones Rd., Suite B-200
Nashville, Tennessee 37215
Telephone: (615) 242-0005
Email: ccutler@ccutlerlaw.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June 2011, a copy of the foregoing document was filed electronically with the Court and served on the individuals listed below via electronic transmission:

Nader Baydoun
Stephen C. Knight 15514
Christopher J. Oliver - 20918
Baydoun & Knight, PLLC
Fifth Third Center, Suite 2650
424 Church Street
Nashville, Tennessee 37219-2461

s/ Heather M. Collins
Heather Moore Collins